

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Julio Tamayo-Naranjo, #03190-131,) C.A. No. 9:04-2486-CMC-GCK
Petitioner,)
v.) **ORDER**
Matthew B. Hamidullah, Warden;)
Tomas Curi, U.S. INS; and)
Alberto R. Gonzales, Attorney General)
of the United States,)
Respondents.)

This matter is before the court on Petitioner's *pro se* petition seeking relief pursuant to 28 U.S.C. § 2241.

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge George C. Kosko for pre-trial proceedings and a Report and Recommendation. On April 25, 2005, the Magistrate Judge issued a Report recommending summary judgment be granted in this matter. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has not responded to the Report and Recommendation and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

It appears that this matter is moot. Petitioner's copy of the Report and Recommendation was returned, marked "unknown," and the United States Bureau of Prisons' records indicate that Petitioner was released March 31, 2005.¹

IT IS THEREFORE ORDERED that this matter is dismissed as moot.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON McGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
June 14, 2005

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¹*See* <http://www.bop.gov> (last visited June 10, 2005).